

Applicant Initiated Interview Request Form

Application No.: 10/047,717 First Named Applicant: Richard J. Knapp
Examiner: Dean Tan Nguyen Art Unit: 3689 Status of Application: Non-Final OA

Tentative Participants:

(1) Dean Tan Nguyen (2) Janice Mooneyham
(3) Gabriel R.W. Goldman (4) Basam E. Nabulsi

Proposed Date of Interview: February 25, 2009 Proposed Time: 10AM AM/PM

Type of Interview Requested:

(1) ☒ Telephonic (2) ☐ Personal (3) ☐ Video Conference

Exhibit To Be Shown or Demonstrated: ☐ YES ☒ NO

If yes, provide brief description: _____

Issues To Be Discussed

Issues (Rej., Obj., etc)	Claims/ Fig. #s	Prior Art	Discussed	Agreed	Not Agreed
(1) <u>Rej.</u>	<u>25, 26</u>	<u>Bade/Yon</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(2) _____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(3) _____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(4) _____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

☒ Continuation Sheet Attached

Brief Description of Argument to be Presented:

Yon/Bade fail to disclose or make obvious Applicant's pending independent claims, including specifically (1) "means for predefining shades, substrates and suppliers" and (2) "means for creating a nested e-palette" in context of the claims-as-a-whole.

An interview was conducted on the above-identified application on _____.

NOTE: This form should be completed by applicant and submitted to the examiner in advance of the interview (see MPEP § 713.01).

This application will not be delayed from issue because of applicant's failure to submit a written record of this interview. Therefore, applicant is advised to file a statement of the substance of this interview (37 CFR 1.133(b)) as soon as possible.

/Basam E. Nabulsi

Applicant/Applicant's Representative Signature

Basam E. Nabulsi

Typed/Printed Name of Applicant or Representative

31,645

Registration Number, if applicable

Examiner/SPE Signature

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Richard J. Knapp

Serial No.: 10/047,717

Confirmation No.: 3818

Filed: October 23, 2001

For: **SYSTEM AND METHOD FOR
FACILITATING SPECIFIER
AND SUPPLIER
COMMUNICATIONS**

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Atty. Docket No.: 097634.00089

Group Art Unit: 3689

Examiner: Dean Tan Nguyen

LETTER REQUESTING INTERVIEW AFTER NON-FINAL REJECTION

Sir:

Pursuant to MPEP 713.01, Applicant respectfully requests a formal **telephonic** interview between Applicant's representatives and the primary Examiner(s) for the above referenced application. Applicant submits this request pursuant to informal telephonic discussions with Examiner Nguyen on February 18, 2009, during which the Examiner indicated a willingness to grant an interview for such purposes as outlined herein. Applicant appreciates Examiner Nguyen's courtesy in addressing Applicant's informal inquiry on February 18th.

Specifically, Applicant respectfully requests a formal telephonic interview for the purpose of clarifying issues relating to the Examiner's interpretation of two claim elements: (1) "means for predefining" and (2) "a nested e-palette" (see claims 25 and 26 of the subject application). Applicant further seeks clarification regarding the Examiner's determination that each of the above elements -- in the context of the claims-as-a-whole -- is made obvious by US Patent Publication No. 2002/0059054 to Bade et al et al. ("Bade") in view of U.S. Patent No. 6,507,824 to Yon et al. ("Yon") or vice versa. Applicant encloses herewith an "Applicant Initiated Interview Request Form" (PTOL-413A), as required under MPEP 713.01.

Procedural History

The present request for a telephonic interview is submitted in response to the Examiner's rejection of new independent claims 25 and 26, in the outstanding Office Action dated February 5, 2009 (the "current Office Action"), as allegedly obvious over Bade/Yon.

Applicant notes that, in the previous Office Action dated August 6, 2008 (the "previous Office Action"), the Examiner similarly rejected then pending independent claims 1 (system), 15 (method) and 22 (system) as allegedly obvious over Bade/Yon. Therein the Examiner stated:

BADE et al discloses a method for facilitating communications (or "...collaborative method of designing systems..." {see par. 0022"}) between plurality of entities, 1st entity functions as a specifier and a 2nd plurality of entities function as plurality of suppliers, said method comprising:

a) receiving information from an order across a computer network at a server, the information originating from a 1st entity (specifier) workstation and including information about the project/design project, said information associated with the project defined by the 1st entity (specifier), the information associated with the project/design including a set of goods (product) and a predetermined set of suppliers; {see Figs. 2, 41, paragraphs [0009], [0023], [0108], [0111], and [0207]}

b) automatically communicating to said predetermined set of suppliers the existence of said project/project design at said server; and {see paragraphs [0207]-[0208], Figs. 8 and 44]}

c) permitting remote access to said project/project design by said predetermined set of suppliers at said server. {see [0023] "...a vendor to access a design published by a designer on the bidding board... vendor may receive a request for quote that includes access privilege to the design..." [0207]}.

BADE et al fairly teaches the claimed invention except for the features of the information in the order/quote received contains specified color data spectra or e-palette information and information associated with the specified e-palette.

Similarly, YON et al discloses a method for facilitating communications between 2 entities, first entity serving as a specifier and a 2nd entity serving as one or more suppliers, said method comprising:

a) receiving an order in the form of electronic (web) template/page or palette across a computer network at a server, said template/page (palette) originating from a specifier (customer or purchaser) workstation and including parameters related to said template/palette, said parameters including a set of goods (product) and a predetermined set of suppliers associated with said template/palette by said specifier (customer/purchaser); {see Figs. 1, 2, elements 32, 34, 36, 44, Fig. 4, elements 52, Fig. 6, 60, cols. 3, lines 5-65, col. 4, lines 5-40, col. 7, lines 1-65}

b) automatically communicating to said predetermined set of suppliers the existence of said template/web page (palette) at said server; and {see Fig. 1, col. 3, lines 4-45, col. 7, lines 1-60]}

c) permitting remote access to said template/palette by said predetermined set of suppliers at said server. {see col. 3, lines 4-40, col. 7, lines 1-12, col. 8, lines 4-45}.

Note, as for the term "e-palette" which appears to be similar to electronic template or page or web page, this is taught in YON et al on cols. 3-4, Figs. 2-5. Note that on col. 4, lines 15-20, YON et al discloses the field (44) on Fig. 2 as "color palette field". Therefore, the teaching of Fig. 2 reads over "e-palette". Alternative, since the palettes of Fig. 2 and

col. 4; lines 1-25 are transferred via electronically (via the Internet), it would have been obvious to change the name of web page or template in YON et al to e-palette if desired to indicate that the palette is carried out electronically.

It would have been obvious to modify the order information about the design project of BADE et al to include specified color data spectra or e-palette information and information associated with the specified e-palette as taught by YON et al if the design item requires color feature or desired color as taught by YON et al {see cols. 1-2, Figs. 2-6}.

Alternatively, YON et al fairly teaches the claimed invention except for a plurality of suppliers in the preamble and the access to the order information. It would have been obvious to modify the teachings by including the two features above as taught by BADE et al to allow effective or better bidding when multiple vendors or suppliers are involved and are competed against each other to inherently provide good service at lower cost.

In response to the Examiner's rejections in the previous Office Action, Applicant canceled each of independent claims 1 (system), 15 (method) and 22 (system) and advanced new independent claims 25 (system) and 26 (method) in their place. It is noted that new independent claims 25 and 26 differ substantially and substantively from the cancelled independent claims 1, 15 and 22. To illustrate, new independent claim 26 and canceled independent claim 15 are reproduced below. Applicant has **bolded** those limitation in new independent claim 26 which were not included in canceled independent claim 15:

26.(Previously Presented) A method for facilitating communications between specifiers and suppliers using a server-based system, the method comprising the steps of:

- a. providing a server-based system including a server, one or more specifier workstations in communication with the server, and one or more supplier workstations in communication with the server;
- b. **using one of the specifier workstations to predefine a plurality of specifier shades, a plurality of specifier substrates and a plurality of suppliers, wherein each specifier shade is characterized by a set of spectral data and wherein the predefined pluralities of specifier shades, specifier substrates and suppliers are stored in a specifier database;**
- c. **using the one of the specifier workstations to create a nested e-palette for a set of goods by selecting from the specifier database (1)**

a set of one or more of the plurality of specifier substrates for association with the set of goods and (2) a set one or more of the plurality of specifier shades for association with each selected specifier substrate, wherein each selected specifier substrate and each selected specifier shade defines a nesting within the nested e-palette;

- d. using the one of the specifier workstations to select from the specifier database a predetermined set of one or more of the plurality of suppliers for association with one or more of the nestings within the nested e-palette;
- e. uploading the **nested e-palette** to a server, whereby the server automatically communicates the existence of the uploaded nested e-palette to the predetermined set of suppliers associated with the nestings within the nested e-palette;
- f. restricting access to at least one of: (1) the uploaded nested e-palette and (2) one or more of the nestings within the uploaded nested e-palette, based upon the predetermined sets of suppliers associated with the nestings within the uploaded nested e-palette;
- g. using one of the specifier workstations to remotely access the uploaded nested e-palette;
- h. providing the one of the specifier workstations with submission data for one or more supplier shades associated with one or more supplier substrates, the submission data including sets of actual spectral data from one or more test samples;
- i. using the one of the specifier workstations to compare the sets of actual spectral data to the sets of spectral data associated with the uploaded nested e-palette; and
- j. uploading the submission data to the server for specifier review.

15.(Currently Amended) A method for facilitating communications between a

specifier and a plurality of suppliers, said method comprising:

- a. receiving information across a computer network at a server, said information originating from a specifier workstation and including an e-palette and information associated with said e-palette defined by said specifier, said information associated with said e-palette including a set of goods and a predetermined set of suppliers;
- b. automatically communicating to said predetermined set of suppliers the existence of said e-palette at said server; and
- c. permitting remote access to said e-palette by said predetermined set of suppliers at said server.

Thus, in the previous Response dated November 6, 2008 (the "Previous Response"), Applicant argued that new independent claims 25 and 26 included numerous limitations that -- in the context of the claims-as-a-whole -- are not disclosed or made obvious by Bade/Yon and that, therefore, each of new independent claims 25 and 26 patentably distinguish over Bade/Yon. The following distinguishing limitations were noted and discussed in particular:

I. "means for predefining a plurality of specifier shades, a plurality of specifier substrates and a plurality of suppliers" (claim 25); "using one of the specifier workstations to predefine a plurality of specifier shades, a plurality of specifier substrates and a plurality of suppliers" (claim 26);

II. "means for creating a nested e-palette for a set of goods" (claim 25); "using the one of the specifier workstations to create a nested e-palette for a set of goods" (claim 26); and

III. "means for filtering the one or more uploaded nested e-palettes" (claim 25).

It is noted that none of the above limitations were included in canceled claims 1, 15 and 22 and that, therefore, none of the above limitations were addressed by the Examiner in the previous Office Action.

Besides presenting arguments with respect to the above limitations, Applicant also presented arguments that the proposed combination of Bade and Yon (and Chan) represented impermissible hindsight.

In the current Office Action, the Examiner responded to Applicant's extensive arguments only by stating that "Applicant's arguments on 11/06/2008 with respect to claims 1-24 have been considered but are moot in view of the new ground(s) of rejection which are caused by applicant's amendment of the claims."

The Examiner advised Applicant that steps (b), (c), (d), (g) and (i) in claim 26 were not accorded patentable weight for allegedly reciting mere intended use. However, in (presumably) rejecting the remaining steps, the Examiner recited (word-for-word) the same reasoning offered previously in rejecting (now canceled) claims 1, 15 and 22. The Examiner also rejected independent claim 25 "over the steps of BADE et al / YON et al or vice versa to carry out the elements as shown in the rejection of claim 26 above."

It is in view of the foregoing events that Applicant requests a formal Interview.

Purpose(s) of Interview

Applicant respectfully requests clarification regarding the Examiner's use of *Bade/Yon* in rejecting new claims 25 and 26.

As a preliminary matter, Applicant notes that claim 25 includes means plus function limitations, e.g., "means for predefining," which should have been given patentable weight by the Examiner, even if the alleged functional limitations of claim 26 were not afforded such patentable significance. Accordingly, Applicant submits that claim 25 should be examined in its entirety, on a limitation-by-limitation basis.

It is also noted that Applicant presents herewith proposed amendments to claim 26 to clarify that all of the steps recited therein are "active, positive steps" and should be accorded patentable weight. Applicant respectfully requests guidance from the Examiner as to whether the proposed amendments meet such objective, per informal discussions on February 18, 2009.

With regards to the current art-based rejections, Applicant respectfully requests clarification as to which specific sections in *Bade/Yon* were relied upon with respect to each of the elements and limitations of claim 25. Specifically, Applicant requests that the Examiner clarify the prior art basis for rejecting claim 25 with respect to each of the following elements:

(1) "means for predefining a plurality of specifier shades, a plurality of specifier substrates and a plurality of suppliers" (claim 25) ("using one of the specifier workstations to predefine a plurality of specifier shades, a plurality of specifier substrates and a plurality of suppliers" (claim 26));

(2) "means for creating a nested e-palette for a set of goods" (claim 25) ("using the one of the specifier workstations to create a nested e-palette for a set of goods" (claim 26)); and

(3) "means for filtering the one or more uploaded nested e-palettes" (claim 25).

With respect to the Examiner's stated grounds for rejection, Applicant notes that the Examiner's reasoning appears to remain tied to the claim language of canceled claims 1, 15 and 22. As previously noted, claims 25 and 26 include many elements and limitations (e.g., the above noted elements and limitations) which were not included in

canceled claims 1, 15 and 22 and were therefore not discussed in the Examiner's reasoning.

Applicant further requests clarification as to why, at least with respect to claim 25, Applicant's arguments in the previous Response were dismissed as "moot." Indeed, as previously noted, the Examiner's "new" grounds for rejection are almost identical (*a la* word-for-word) with the grounds for rejection raised in the previous Office Action. Moreover, the arguments presented in the previous Response specifically addressed the patentability of claims 25 and 26 over the particular cited combination of Bade/Yon.

Applicant respectfully believes that a formal telephonic interview will permit clarification of the above-noted issues. If the Examiner believes that any issues need to be discussed prior to the requested interview or if the Examiner wishes to discuss scheduling of the interview, the Examiner is invited to call the undersigned attorney directly at 203-399-5920 or the office of the undersigned attorney at 203-399-5900 so that appropriate arrangements can be made for resolving such issues as expeditiously as possible. Although Applicant believes that no further fees are due in connection with this request, the Commissioner is hereby authorized to charge counsel's Deposit Account No. 503570 for any fees required to make this request timely and acceptable to the Office.

Respectfully submitted,



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Date: February 23, 2009

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APPENDIX A - SUGGESTED CLAIM AMENDMENTS

25. (Previously Presented) A system for facilitating communications between specifiers and suppliers, the system comprising:

- a. one or more specifier workstations, each specifier workstation including:
 - i. means for predefining a plurality of specifier shades, a plurality of specifier substrates, and a plurality of suppliers, wherein each specifier shade is characterized by a set of spectral data;
 - ii. means for storing the predefined pluralities of specifier shades, specifier substrates and suppliers in a specifier database;
 - iii. means for creating a nested e-palette for a set of goods, said creating means being adapted to select from the specifier database a set of one or more of the plurality of specifier substrates for association with the set of goods and to select a set of one or more of the plurality of specifier shades for association with each selected specifier substrate, wherein each selected specifier substrate and each selected specifier shade defines a nesting within the nested e-palette;
 - iv. means for selecting from the specifier database a predetermined set of one or more of the plurality of suppliers for association with one or more of the nestings within the nested e-palette; and
 - v. means for uploading the nested e-palette to a server;
- b. a server in communication with the one or more specifier workstations, the server including:
 - i. means for remotely storing one or more nested e-palettes uploaded from the one or more specifier workstations;
 - ii. means for automatically communicating the existence of each uploaded nested e-palette to the predetermined set of suppliers associated with the nestings within the nested e-palette; and
 - iii. means for restricting access to at least one of: (1) each uploaded

nested e-palette and (2) each of the nestings within each uploaded nested e-palette, based upon the predetermined sets of suppliers associated with the nestings within the uploaded nested e-palletes;

- c. one or more supplier workstations in communication with the server, each supplier workstation including:
 - i. means for remotely accessing one or more of the uploaded nested e-palletes;
 - ii. means for filtering the one or more uploaded nested e-palletes for at least one of: (1) one or more nested e-palletes and (2) one or more nestings within the uploaded nested e-palletes;
 - iii. means for importing submission data for one or more supplier shades associated with one or more supplier substrates, the submission data including sets of actual spectral data from one or more test samples;
 - iv. means for comparing the sets of actual spectral data to the sets of spectral data associated with the uploaded nested e-palletes; and
 - v. means for uploading the submission data to the server for review by one or more specifiers.

26.(Currently Amended) A method for facilitating communications between specifiers and suppliers using a server-based system , the method comprising the steps of:

- a. providing a server-based system including a server, one or more specifier workstations in communication with the server, and one or more supplier workstations in communication with the server;
- b. using one of the specifier workstations and predefining ~~to predefine~~ a plurality of specifier shades, a plurality of specifier substrates and a plurality of suppliers, wherein each specifier shade is characterized by a set of spectral data and wherein the predefined pluralities of specifier shades, specifier substrates and suppliers are stored in a specifier database;
- c. using the one of the specifier workstations and creating ~~to create~~ a nested e-

- palette for a set of goods by selecting from the specifier database (1) a set of one or more of the plurality of specifier substrates for association with the set of goods and (2) a set one or more of the plurality of specifier shades for association with each selected specifier substrate, wherein each selected specifier substrate and each selected specifier shade defines a nesting within the nested e-palette;
- d. using the one of the specifier workstations and selecting ~~to select~~ from the specifier database a predetermined set of one or more of the plurality of suppliers for association with one or more of the nestings within the nested e-palette;
 - e. uploading the nested e-palette to a server, ~~whereby the server~~ and automatically communicating ~~communicates~~ the existence of the uploaded nested e-palette to the predetermined set of suppliers associated with the nestings within the nested e-palette;
 - f. restricting access to at least one of: (1) the uploaded nested e-palette and (2) one or more of the nestings within the uploaded nested e-palette, based upon the predetermined sets of suppliers associated with the nestings within the uploaded nested e-palette;
 - g. using one of the supplier ~~specifier~~ workstations and remotely accessing ~~to remotely access~~ the uploaded nested e-palette;
 - h. providing the one of the supplier ~~specifier~~ workstations with submission data for one or more supplier shades associated with one or more supplier substrates, the submission data including sets of actual spectral data from one or more test samples;
 - i. using the one of the supplier ~~specifier~~ workstations and comparing ~~to compare~~ the sets of actual spectral data to the sets of spectral data associated with the uploaded nested e-palette; and
 - j. uploading the submission data to the server for specifier review.